

# PARTICIPATION RULES WAIVER

New South Wales

**Section 27 *Electronic Conveyancing (Adoption of National Law) Act 2012***

## Title

This instrument is New South Wales Participation Rules Waiver PR 1/2019 – Certifications.

## Enabling Provisions

1. Under sections 23 and 25 of the *Electronic Conveyancing (Adoption of National Law) Act 2012* (the National Law) the Registrar-General (Registrar) has determined and published Version 5 of the Participation Rules which come into effect on and from 25 February 2019 (Participation Rules).
2. Section 27 of the National Law permits the Registrar to waive compliance with all or any provisions of the Participation Rules if the Registrar is satisfied that granting the waiver is reasonable in all the circumstances.

## Affected Participation Rules

Participation Rule 7.10 (Affected Participation Rule).

## Explanatory Statement

Under Participation Rule 7.10, a Subscriber to an Electronic Lodgment Network (ELN) must comply with the Certification Rules set out in Schedule 3 of the Participation Rules.

Version 5 of the Participation Rules which comes into effect on and from 25 February 2019 includes some minor changes to the wording of certifications required under the Certification Rules. These wording changes will not be able to be implemented in the ELN, known as 'PEXA', and operated by Property Exchange Australia Ltd, on 25 February 2019 when Version 5 of the Participation Rules comes into effect.

The wording of the certifications will be updated to comply with the Certification Rules in Version 5 of the Participation Rules in a PEXA system release on 9 November 2019. However, electronic Registry Instruments and other electronic Documents:

- whether signed prior to, on or after 9 November 2019,
- in an Electronic Workspace which contains at least one electronic Registry Instrument or electronic Document signed prior to 9 November 2019
- but not submitted for lodgment until on or after 25 February 2019,

may contain the wording of the Certification Rules in Schedule 3 of Version 4 of the Participation Rules.

The Registrar is of the view that, in the interim, the continued use of the wording in the Certification Rules in Schedule 3 of Version 4 of the Participation Rules is reasonable. Accordingly, the Registrar has determined that it would be reasonable in the circumstances

to grant a partial waiver modifying the obligations of Subscribers under the Affected Participation Rule.

### **Waiver**

Subject to the Conditions, the Registrar grants Subscribers to Property Exchange Australia Ltd's ELN, PEXA, a partial waiver of their obligations to comply with the Affected Participation Rule.

### **Conditions**

The partial waiver is granted on the conditions that:

- (a) This waiver applies to any electronic Registry Instruments and other electronic Documents (whether signed prior to, on or after 9 November 2019 in an Electronic Workspace which contains at least one electronic Registry Instrument or electronic Document signed prior to 9 November 2019 but not submitted for lodgment until on or after 25 February 2019.
- (b) Any electronic Registry Instruments or other electronic Document to which Condition (a) applies must contain (as appropriate) the wording of the Certifications Rules in Schedule 3 of Version 4 of the Participation Rules.

### **Commencement**

This partial waiver commences on 25 February 2019.

### **Period during which this waiver applies**

This partial waiver operates to the earlier of:

- (a) The date on which Electronic Workspaces in Property Exchange Australia Ltd's ELN, PEXA, contain no electronic Registry Instruments or other electronic Documents signed prior to 9 November 2019; or
- (b) the revocation of this waiver by the Registrar.

**Dated:** 28 February 2019

**Signed by:**



**Jeremy Cox**  
**Registrar General**